

August 29, 2016

Leigh Maida
VIA E-MAIL

RE: Wine Growler Sales

Dear Ms. Maida:

ISSUE: This is in response to your e-mail of August 8, 2016, wherein you indicate that your licensed establishment is considering applying for a wine expanded permit. To assist in your decision, you ask whether wine expanded permit holders may sell wine by the growler, as is permitted for sales of malt or brewed beverages. The growler will have a lid.

Records maintained by the Pennsylvania Liquor Control Board (“PLCB”) indicate that, among your involvement in other retail licenses, you are president, secretary, director, and shareholder of It Could Be Worst, Inc., which holds Restaurant Liquor License No. R-16205 (LID 70505) for use at the premises located at 4301 Baltimore Avenue, Philadelphia, Pennsylvania.

OPINION: As you appear to be aware, a wine expanded permit (“WEP”) allows its holder to sell wine for off-premises consumption, subject to various conditions. 47 P.S. § 4-415(a)(2). For example, sales of wine to-go must occur at a designated register which is staffed at all times by a cashier who is at least eighteen years old and has completed server/seller training in the Responsible Alcohol Management Program (“RAMP”); other items (alcoholic and non-alcoholic) may also be purchased at this register. 47 P.S. §§ 4-415(a)(4), 4-415(a)(9). A WEP holder must use a transaction scan device to verify the age of anyone who appears to be under thirty-five years old, and it must comply with all components of RAMP. 47 P.S. §§ 4-415(a)(6), (8), (9), 4-471.1. Wine may be stored in a non-contiguous area that is not accessible to the public, is locked at all times, and is not accessible to employees under eighteen years old. 47 P.S. § 4-415(a)(6).

More information on the requirements governing sales by WEP holders may be found on the PLCB’s website, www.lcb.state.pa.us, by placing your cursor on “Legal” and clicking on “Legislative Updates.” Click on “Act 39 of 2016” to open a pdf document, and then select “Wine Expanded Permits” from the Table of Contents.

With regard to your specific question, one such limitation is that a WEP holder may sell no more than 3,000 ml (3 liters) of wine in a single transaction. 47 P.S. § 4-415(d). There are no other limits in the Liquor Code or the PLCB’s Regulations as to the types of containers in which WEP holders may sell wine for off-premises consumption.

Therefore, if your licensed establishment obtains a WEP, it would be permitted to sell wine in growlers, as long as sales for off-premises consumption are limited to 3000 ml in a single sale.

However, please note that while the Liquor Code does not require WEP holders to sell wine in a sealed container, local municipalities may have ordinances which prohibit open containers of alcoholic beverages within the boundaries of the municipality. As this office cannot advise you as to the open container laws in your municipality, it is suggested that you contact your local municipality or police department to determine whether your municipality has any applicable open container ordinances.

Should you have any additional questions, please do not hesitate to again contact this office.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Jerry W. Waters, Director of Office of Regulatory Affairs
Tisha Albert, Director, Bureau of Licensing
Jeffrey Lawrence, Assistant Director, Bureau of Licensing

LCB Advisory Opinion No. 16-330